

DELEGATE MUDD: Yes.

DELEGATE RYBCZYNSKI: It occurs to me in some of this material there was some qualification put on that. Is the Missouri Plan used in the entire state of Missouri?

DELEGATE MUDD: No, only with respect to some courts. It has been expanded over the years. It began, I think, with the Court of Appeals and has now been extended to courts in St. Louis and Kansas City possibly, but it is being expanded as the legislature there implements it.

THE CHAIRMAN: Delegate Rybczynski.

DELEGATE RYBCZYNSKI: So that the experience in Missouri is not statewide after twenty-five years of use. I want to ask you a question about term of office. We talked about wanting judges who would feel secure and would not have to stand for re-election against live opposition and all this. Does this not knock your own theory in the head in reducing the term from fifteen years to ten years?

DELEGATE MUDD: Not in the judgment of the Committee in view of the information available to us. The fifteen-year term in Maryland is one of the longest terms allowed for judges in any state and with the non-competitive election and our recommendation with respect to removal and retirement, all that was more consistent with the ten-year term and running against the record of ten years.

THE CHAIRMAN: Delegate Rybczynski.

DELEGATE RYBCZYNSKI: Mr. Chairman, with reference to the lay members of the nominating committee, I can greatly appreciate the facility with which lay members would know the various members of the Bar Association in your county, for instance, or Mr. Grant's. But how could a lay member possibly know the 2,500 different lawyers of Baltimore City and their qualifications for the office?

DELEGATE MUDD: The answer is that I doubt if there is any lay person in Baltimore City who would know intimately all 2,500 lawyers of that city, if you have that many. But I would assume that there are laymen there who are knowledgeable in the business affairs of the city and by hearsay at least would have a rather generous knowledge of a great number of lawyers.

THE CHAIRMAN: Are there any further questions? Delegate Weidemyer.

DELEGATE WEIDEMEYER: Mr. Chairman, did the Committee give consideration to the fact that both the Chairman and I have enjoyed many happy and successful years of practice under the present system of judicial appointments?

DELEGATE MUDD: Did I give consideration to that?

DELEGATE WEIDEMEYER: Did the Committee give consideration to the fact that both you and I have enjoyed many happy and successful years of practice under the present system of judicial appointments and elections?

DELEGATE MUDD: I forgot to remind them you did, but it was obvious from my position as Chairman I was not enjoying it so they could not reach that conclusion.

THE CHAIRMAN: Are there any further questions, Delegate Grant?

DELEGATE GRANT: Delegate Mudd, you were asked a question regarding the power of the judiciary over the governor. Was it not true that in the transition period from 1864 to the 1867 Constitution was a case arose relative to appointment of a judge in which governor Swan refused to appoint a judge and the court issued a mandamus and directed him to do so. The court ruled that *Marbury v. Madison* was not applicable to Maryland on the governor.

DELEGATE MUDD: You are thoughtful and kind. I received your note. You are entirely correct.

THE CHAIRMAN: Are there any further questions? If not the Chair calls on Delegate Johnson, spokesman for the minority, to present the minority report with respect to this portion of the committee recommendation. Delegate Johnson, please come forward to the reading desk.

DELEGATE JOHNSON: Mr. Chairman, fellow delegates, I might be somewhat more detailed in my presentation hopefully to clear up questions in advance.

Let me say at the outset that all note matters under consideration pertaining to the judicial article must be divided to insure some semblance of order and understanding. The members of the Judicial Branch Committee majority and minority alike have a responsibility to remind the Committee of the Whole to consider each and every section as an indivisible part of the entire article and emphasize those areas where a break with a proven and workable system occurs. I say this partly because I feel the action of the Committee of the